

§ 115.102

of this part to the FHEO regional director. This includes assessing the performance of interim and certified agencies as described in § 115.206. This also includes the offering of a Performance Improvement Plan (PIP) as described in § 115.210 and the suspension of interim certification or certification due to performance deficiencies as described in § 115.210.

§ 115.102 Public notices.

(a) Periodically, the Assistant Secretary will publish the following public notices in the FEDERAL REGISTER:

(1) A list of all interim and certified agencies; and

(2) A list of agencies to which a withdrawal of interim certification or certification has been proposed.

(b) On an annual basis, the Assistant Secretary may publish in the FEDERAL REGISTER a notice that identifies all agencies that have received interim certification during the prior year. The notice will invite the public to comment on the state and local laws of the new interim agencies, as well as on the performance of the agencies in enforcing their laws. All comments will be considered before a final decision on certification is made.

Subpart B—Certification of Substantially Equivalent Agencies

§ 115.200 Purpose.

This subpart implements section 810(f) of the Fair Housing Act. The purpose of this subpart is to set forth:

(a) The basis for agency interim certification and certification;

(b) Procedures by which a determination is made to grant interim certification or certification;

(c) How the Department will evaluate the performance of an interim and certified agency;

(d) Procedures that the Department will utilize when an interim or certified agency performs deficiently;

(e) Procedures that the Department will utilize when there are changes limiting the effectiveness of an interim or certified agency's law;

(f) Procedures for renewal of certification; and

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(g) Procedures when an agency requests interim certification or certification after a withdrawal.

§ 115.201 The two phases of substantial equivalency certification.

Substantial equivalency certification is granted if the Department determines that a state or local agency enforces a law that is substantially equivalent to the Fair Housing Act with regard to substantive rights, procedures, remedies, and the availability of judicial review. The Department has developed a two-phase process of substantial equivalency certification.

(a) *Adequacy of Law.* In the first phase, the Assistant Secretary will determine whether, on its face, the fair housing law that the agency administers provides rights, procedures, remedies, and the availability of judicial review that are substantially equivalent to those provided in the federal Fair Housing Act. An affirmative conclusion may result in the Department offering the agency interim certification. An agency must obtain interim certification prior to obtaining certification.

(b) *Adequacy of Performance.* In the second phase, the Assistant Secretary will determine whether, in operation, the fair housing law that the agency administers provides rights, procedures, remedies, and the availability of judicial review that are substantially equivalent to those provided in the federal Fair Housing Act. An affirmative conclusion will result in the Department offering the agency certification.

§ 115.202 Request for interim certification.

(a) A request for interim certification under this subpart shall be filed with the Assistant Secretary by the state or local official having principal responsibility for the administration of the state or local fair housing law. The request shall be supported by the text of the jurisdiction's fair housing law, the law creating and empowering the agency, all laws referenced in the jurisdiction's fair housing law, any regulations and directives issued under the law, and any formal opinions of the State Attorney General or the chief legal officer of the jurisdiction that